

DEPARTMENT OF MARINE RESOURCES

Chapter 115: *Vibrio parahaemolyticus* CONTROL PLAN

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115.01 Compliance

The *Vibrio parahaemolyticus* Control Plan (the “Vibrio Control Plan” or the “Control Plan”) applies specifically to American and European oysters (*Crassostrea virginica* and *Ostrea edulis*) and hard clams (*Mercenaria mercenaria*) harvested designated control areas. The Control Plan provides additional and more rigorous controls than those imposed by DMR Rules chapters 9, 22 and 94 to the handling of American and European oysters and hard clams in the area described in Section 115.02. Insofar as the Control Plan time and temperature requirements exceed those imposed by existing rules or are in addition to those imposed by existing rules, the relevant provisions of the Control Plan shall supersede the provisions of chapters 9, 22 and 94.

The Control Plan shall be complied with during the harvesting and handling of the above-described species, as conducted by harvesters, certified shellstock dealers, certified shellfish establishments (sometimes referred to as shellfish facilities or plants), shucker-packers, shellstock shippers and receivers, reshippers, depuration processors, enhanced retail seafood license holders and all others involved in the processes described in chapters 9, 22, and 94.

115.02 Control Months and Designated Control Areas

The Vibrio Control Plan is in effect from June 1st through October 15th, inclusive, in the designated control areas:

- A. all parts of the Damariscotta River north of a line beginning at Montgomery Point, Boothbay and running southeast to Jones Point, South Bristol
- B. all parts of the Sheepscot River north of Route 1
- C. all parts of the New Meadows River north of Bath/State Rd in Brunswick and West Bath
- D. all parts of the Scarborough and Nonesuch Rivers north of a line beginning at the eastern tip of Pine Point Beach, Scarborough and running east to the opposite shore on Prouts Neck, Scarborough
- E. all parts of Spinney Creek north of Route 103

A mandatory harvest/purchase plan must be submitted annually by April 1st in accordance with section 115.04 (E).

115.03 Definitions

“**Adequately iced**” means that the amount and application of ice is sufficient to ensure that immediate cooling begins and continues for all shellstock in a container. If ice slurry is used and the shellstock are submerged, the presence of ice in the slurry indicates adequate icing. Potable water must be used for the production of ice used for cooling of shellstock.

“**Control months**” means June 1st through October 15th, inclusive.

“Harvest” means the act of removing shellstock from growing area waters and its placement on or in a manmade conveyance or other means of transport or transfer. This does not include the placement of shellstock in aquaculture gear designed to grow or enhance shellstock as part of husbandry practices.

“Mechanical Refrigeration” means storage in a container or conveyance that is approved by the Maine Department of Marine Resources (DMR) and capable of cooling to, and maintaining, an ambient temperature of 45°F or less.

“Potable water” means a water supply which meets the requirements of the *Safe Drinking Water Act*, as administered by the EPA and which meets the requirements of DMR Chapters 15-20.

“Resubmerge” means, and is strictly limited to, reintroduction of shellstock into approved waters following the removal of shellstock from approved waters. This is separate and distinct from “wet storage” which is a certified dealer activity. Resubmergence shall be conducted only by an aquaculture lease holder or permit holder.

“Shading” means to shelter by intercepting the direct rays of the sun to protect the shellstock from heat. Shading may be accomplished by any means that effectively protects the harvested shellstock from direct sunlight and prevents excessive heat build-up in the shaded area. Materials used for shading should not be in direct contact with the shellstock unless they are food grade surfaces (e.g. no seaweed or wet tarps applied directly to shellstock).

“Temperature control” means the use of ice or mechanical refrigeration, which is capable of lowering the temperature of the shellstock and maintaining it at an internal temperature of 50°F or less.

“Time of harvest” for the purpose of temperature control time of harvest begins once the first shellstock is no longer submerged. For example, the time intertidal shellstock are first exposed to the air as the tide recedes or the time when a drag is brought onboard a vessel with shellstock from a subtidal resource.

“Vp” and “Vibrio” refer to *Vibrio parahaemolyticus*.

115.04 General Requirements

- A. **Deterioration and Decomposition.** Harvesters shall not allow shellstock to deteriorate or decompose from exposure to high ambient air temperatures and shall deliver shellstock to a certified shellfish dealer before such deterioration or decomposition occurs.

Certified shellfish dealers and enhanced retail seafood license holders shall not allow shellstock to deteriorate or decompose from exposure to high ambient air temperatures and shall deliver shellstock to a certified shellfish dealer or retail customer before such deterioration or decomposition occurs.

- B. **Sales from Home Prohibited.** Notwithstanding the provisions of 12 MRS §6601(2), during the control months it is unlawful for harvesters to sell from their homes oysters and hard clams that have been taken from the designated control areas.

- C. **Recreational Harvest Prohibited.** It is unlawful to engage in the recreational harvest of oysters and hard clams harvested from the designated control areas during the control months. Provided, however, that the prohibition against recreational harvest shall not apply to those holding a Limited Purpose Aquaculture license for shellfish taken from their license site or to towns with a municipal shellfish ordinance that issues recreational licenses and administers mandatory vibrio education to recreational harvesters prior to licensing.
- D. **Mandatory Training.** All harvesters and certified shellfish dealers who take oysters and/or hard clams from the designated control areas or who purchase oysters and/or hard clams from harvesters that were taken from the designated control areas shall participate in annual, mandatory training provided by the DMR. Any harvester or dealer whose product is implicated in an epidemiologically linked case of Vibrio illness shall take a refresher training provided by DMR.
- E. **Mandatory Vp Harvest/Purchase Plan By April 1st.** All harvesters, certified shellfish dealers and enhanced retail seafood license holders who take oysters and/or hard clams, buy or wet store oysters and/or hard clams from the designated control areas shall submit to DMR a Vp harvest/purchase plan on DMR approved forms. This plan must be submitted on or before April 1st annually in order to be able to operate during the control months. The harvest/purchase plan must be reviewed, amended if necessary, signed and dated by the harvester, shellfish dealer or enhanced retail seafood license holder before submission to DMR. The DMR will approve or deny the plan within 30 days and notify the applicant in writing of their decision. If the plan is denied, the applicant will have an opportunity to correct the deficiencies. Harvesters, shellfish dealers and enhanced retail seafood license holders may not harvest, buy or wet store oysters or hard clams during the control months without a DMR approved harvest/purchase plan. The harvest/purchase plan must include;
- (1) For Harvesters:
- a. Harvest process from time of harvest to delivery to a certified shellfish dealer or enhanced retail seafood license holder.
 - b. Cooling processes such as resubmergence procedures, shading, wetting, and icing.
 - c. Product handling and data recording including resubmergence times. Details on how lots are identified and kept separate depending on their exposure history must be included. An example data sheet should be included with the plan.
 - d. Conveyance methods including how shellstock are held and transported from time of harvest to point of sale, resubmergence or wet storage.
 - e. Contingency plan if control plan is violated including resubmergence for aquaculture lease or permit holders, wet storage by a certified shellfish dealer or destruction of shellstock.

- (2) For Dealers and Enhanced Retail Seafood License Holders:
 - a. Receiving process including documentation of time of harvest, verification of harvesters' training and harvest plan requirements and time of delivery.
 - b. Temperature control measures and documentation that ensures product reaches 50°F internal temperature within three hours of receiving product. Product may not be reshipped before it reaches 50°F internal temperature.
 - c. Provisions for maintaining and continuing cooling that was initiated by harvesters utilizing Control Plans with immediate icing.
 - d. Dealers with a buying station permit may purchase oysters and/or hard clams from the designated control areas provided that they use ice to initiate immediate cooling in the conveyance.
 - e. Contingency plan if control plan is violated including resubmergence for aquaculture lease or permit holders, wet storage by a certified shellfish dealer or destruction of shellstock.

115.05 Harvest Restrictions During Control Months

- A. Control Plans that do not include immediate icing:
 - (1) All oysters and hard clams shall be transferred to a certified shellfish dealer or enhanced retail seafood license holder and put into temperature control, wet storage or depuration within two (2) hours of the time of harvest.
 - (2) All oysters and hard clams shall be subject to shading immediately after harvest.
 - (3) All oysters and hard clams that are harvested and exposed to ambient temperatures for more than two (2) hours but less than twelve (12) hours must be resubmerged or wet stored by a certified shellfish dealer for no less than 24 hours or destroyed.
 - (4) All oysters and hard clams that are harvested and exposed to ambient temperatures for twelve (12) hours or more must be resubmerged or wet stored for no less than seven (7) days or 168 hours or destroyed.
- B. Control Plans that include immediate icing:
 - (1) All oysters and hard clams shall be subject to shading immediately after harvest.
 - (2) All oysters and hard clams shall be adequately iced immediately after harvest and maintained on ice until delivery to a certified dealer or enhanced retail seafood license holder under the time to temperature regulations in Chapter 94.04.

115.07 Noncompliance

Shellstock received by a certified dealer or enhanced retail seafood license holder without time of harvest recorded on the harvest tag, in exceedance of two (2) hours from time of harvest and/or without adequate ice shall be placed in an approved wet storage system for seven (7) days or 168 hours or destroyed.

115.08 Reporting of Violations

Harvesters and certified shellfish dealers are required to report observed violations of the Vibrio Control Plan immediately to Marine Patrol.

EFFECTIVE DATE: January 1, 2016

AMENDED:

August 9, 2017-EMERGENCY 115.01; 115.02; 115.04(B); 115.04(C); 115.05(A)-(B); 115.06;115.08

November 14, 2017-Sections 115.01, 115.02, 115.03, 115.04(B)-(F)(1)&(2), 115.05(A)&(B),115.06, 115.08

March 13, 2019-Sections 115.01, 115.02, 115.04, 115.05, and 115.06

March 13, 2021-Sections .01, .02, .03, .04, .0, .06 (removed), .07, .09 (removed)